IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2744 OF 2005

Shri.Jagannivas Shrinivas Bhat
and Anr. ...Applicants.

Versus

Shri.Atik M. Sanghavi
and Anr. ...Respondents.

Mrs.B.P.Jakhade, Advocate for the Applicants.

CORAM : SMT.V.K.TAHILRAMANI,J.

DATED : OCTOBER 19, 2006.

P.C.:

1. Heard Mrs.Jakhade, the learned counsel for the Applicants. None appears for respondent No.1-orig.complainant though served.

2. Applicant No.1 is the Karta of applicant No.2 which is H.U.F.. Applicant No.1 had preferred an application for discharge before the learned Metropolitan Magistrate, 4th Court, Girgaum, Mumbai in Case No.CC No.1481/S/2003. The applicants are facing the prosecution in the said case under section 138 of the Negotiable Instruments Act.

3. The said application for discharge came to be rejected by the learned Magistrate by order dated 19.11.2003. However while rejecting the said application the learned Magistrate also imposed costs of Rs.1000/- to be paid to the other side.

4. Mrs.Jakhade states that applicant No.1 is above 65 years of age and is suffering from many medical ailments. She states that infact applicant No.1 at the moment is still in the Hospital in ICCU on account of heart disease. Certificate to that effect is produced by Mrs.Jakhade, the learned counsel for the applicants. The said certificate is taken on record and marked "X" for identification. Mrs.Jakhade has submitted that the applicant No.1 is not in a position to pay the said amount more so on account of his serious ailment and hence the order imposing costs of Rs.1000/- on the applicant be quashed and set aside.

5. In view of the facts and circumstances of this case, I am inclined to reduce the costs from

Rs.1000/- to Rs.200/- (Rs.Two hundred only). The order dated 19.11.2003 stands modified accordingly.

6. Criminal application is disposed of.

(SMT.V.K.TAHILRAMANI,J.)